

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND VARIANCE - S/S Wilkens Ave.,
SE/S of its intersection with * DEPUTY ZONING COMMISSIONER
Walker Ave., 53' N of Campus Loop Rd.
(6401 Wilkens Avenue) * OF BALTIMORE COUNTY
1st and 13th Election Districts
1st Councilmanic District * Case No. 95-392-XA

University of Maryland, Baltimore County (UMBC)
Petitioner

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Exception and Variance for that property known as 6401 Wilkens Avenue, located near its interchange with the Baltimore Beltway in Catonsville. The Petitions were filed by the owners of the property, the State of Maryland, University of Maryland, Baltimore County, by Leland R. Beitel, Associate Vice President of Administrative Affairs, and American PCS, L.P., Contract Lessee, by Margaret C. Ruggieri, Esquire, through their attorney G. Scott Barhight, Esquire. The Petitioners seek a special exception for a wireless transmitting and receiving facility on the subject property, and a variance from Section 502.7.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a property line setback of 295 feet in lieu of the minimum required 738 feet for an existing 369-foot high wireless transmitting and receiving facility. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petitions were representatives of American PCS and UMBC, and Christine McSherry, Esquire, who appeared on behalf of American PCS. There were no Protestants present.

Testimony and evidence offered revealed that the property which is the subject of this request consists of 7.9 acres, more or less, zoned

ORDER RECEIVED FOR FILING

Date

By

MICROFILMED

D.R. 3.5 and is located within the UMBC complex off of Wilkens Avenue. The Petitioners are desirous of locating a wireless transmitting and receiving facility on the subject property. Specifically, the Petitioners wish to install six (6) antenna on an existing 369-foot tower located on the campus of UMBC. In addition to the special exception request, a variance is needed to legitimize the existing tower. Testimony revealed that since the property is State-owned, a variance for the height of the tower was not necessary at the time it was erected. Now that a private concern, American PCS, is desirous of locating antennae on this tower, the special exception and height variance become necessary.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 3.5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in

roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to

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DATE 8/16/65
BY [Signature]

NOTED

be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief to the owner of the property involved and be more consistent with that afforded other property owners; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.


Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

ORIGINAL FILED
8/16/95
JRP

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 16th day of August, 1995 that the Petition for Special Exception to permit a wireless transmitting and receiving facility on the subject property, in accordance with Petitioner's Exhibit 3, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 502.7.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a property line setback of 295 feet in lieu of the minimum required 738 feet for an existing 369-foot high wireless transmitting and receiving facility, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 8/16/95
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 16, 1995

G. Scott Barhight, Esquire
Christine McSherry, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
S/S Wilkens Avenue, SE/S of its intersection with Walker Avenue
and 53' N of Campus Loop Rd.
(6401 Wilkens Avenue)
1st and 13th Election Districts - 1st Councilmanic District
Case No. 95-392-XA

Dear Mr. Barhight & Ms. McSherry:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Margaret C. Ruggieri, Esquire, American PCS, L.P.
One Democracy Center, 6901 Rockledge Drive, Bethesda, Md. 20817

People's Counsel

File





Petition for Variance

95-392-KA

to the Zoning Commissioner of Baltimore County

for the property located at 5401 Wilkens Ave., Baltimore, MD 21228

which is presently zoned D.R. 3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

502.7.C.2 To permit a property line setback of 295 feet for a 369'ft high wireless transmitting and receiving facility in lieu of the required 738 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

To be presented at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

Margaret C. Ruggieri, Esq.
(Type or Print Name) for American PCS., L.P.

Signature *Margaret Ruggieri*
One Democracy Center
6901 Rockledge Drive

Address
Bethesda, MD 20817
City State Zipcode

Attorney for Petitioner

G. Scott Barhight, Esq.
(Type or Print Name)

Signature *G. Scott Barhight*
Whiteford, Taylor & Preston
210 W. Pennsylvania Ave. 832-2000

Address Phone No.
Towson, MD 21204
City State Zipcode

(We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s).

State of Maryland,
University of Maryland, Baltimore Co.

(Type or Print Name) By: Leland R. Beitel, Assoc. Vice
President for Admin. Affairs, UMBC

Signature

(Type or Print Name)

Signature *Leland R. Beitel*
5401 Wilkens Ave., Administrative Bldg.
9th Flr, Room 923 455-2939

Address Phone No.
Baltimore, MD 21228

City State Zipcode
Name, Address and phone number of representative to be contacted

G. Scott Barhight, Esq.
Name
210 W. Pennsylvania Ave. 832-2000
Address Towson, MD 21204 Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING
unavailable for Hearing

the following dates Next Two Months

ALL OTHER

REVIEWED BY: DATE

Printed with Soybean Ink
on Recycled Paper

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380

ORDER RECEIVED FOR FILING
Date
By



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 5401 Wilkens Ave., Baltimore, MD 21228

which is presently zoned DR3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for a wireless transmitting and receiving facility.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, ~~owner~~, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Expenses to be paid by American PCS, L.P.

Contract Purchaser/Lessee:

Margaret C. Ruggieri, Esq.

(Type or Print Name) for American PCS, L.P.

Signature

One Democracy Center
6901 Rockledge Drive

Address

Bethesda, MD 20817

City State Zipcode

Attorney for Petitioner:

G. Scott Barhight, Esq.

(Type or Print Name)

Signature

Whiteford, Taylor & Preston
210 W. Pennsylvania Ave. (410) 832-2000

Address

Towson, MD 21204

State

Zipcode

I/we do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

State of Maryland

University of Maryland, Baltimore Co.

(Type or Print Name)

By: Leland R. Beitel, Assoc. Vice
President for Admin. Affairs, UMBC

Signature

(Type or Print Name)

Signature

5401 Wilkens Ave. Administrative Bldg.
9th Floor, Room 923 455-2939

Address

Phone No

Baltimore, MD 21228

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

G. Scott Barhight, Esq.

Name

210 W. Pennsylvania Ave. 832-2000

Address Towson, MD 21204

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

ORDER RECEIVED FOR FILING

Date

BY

386

95-392-XA

Description

**To Accompany Petition for
Special Exception and Variance**

7.9 Acre Special Exception Parcel

University of Maryland, Baltimore County

5401 Wilkens Avenue

Thirteenth Election District, Baltimore County, Maryland



Daft McCune Walker, Inc.

200 East Pennsylvania Avenue

Towson, Maryland 21286

410 296 3333

Fax 296 4705

A Team of Land Planners,

Landscape Architects,

Engineers, Surveyors &

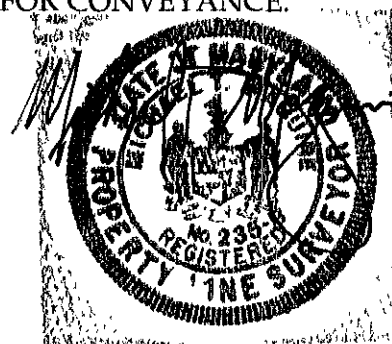
Environmental Professionals

Beginning for the same at the end of the second of two following courses and distances measured from the point formed by the intersection of the centerline of Walker Avenue with the centerline of Campus Loop Road (1) North 53 degrees 01 minutes 08 seconds West along the centerline of Walker Avenue 53 feet, more or less, and thence at a right angle to said Walker Avenue (2) North 36 degrees 58 minutes 52 seconds East 342 feet, more or less, to the point of beginning, said point of beginning having coordinate values South 13762 feet, more or less, and West 27631 feet, more or less, said values being referred to the coordinate system established in the Baltimore County Metropolitan District, thence leaving said beginning point and running the four following courses and distances, viz.: (1) North 53 degrees 01 minutes 08 seconds West 590.00 feet, thence (2) North 36 degrees 58 minutes 52 seconds East 590.00 feet, thence (3) South 53 degrees 01 minutes 08 seconds East 590.00 feet, and thence (4) South 36 degrees 58 minutes 52 seconds West 590.00 feet to the point of beginning; containing 7.9 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

April 27, 1995

Project No. 94123.52



3586

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-392-X11

District 151 + 130A Date of Posting 5/13/95
Posted for: Special Exception & Variance
Petitioner: State of Md. & American PCS, L.P.
Location of property: 5201 Wilkens Ave, NE
Location of Signs: Facing road way on property being zoned &
Remarks: _____
Posted by [Signature] Date of return: 5/19/95
Signature
Number of Signs: 1



NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #95-392-XA
(Item 388)
5401 Wilkens Avenue
342' NE of Walker Avenue,
which is 53' NW of Campus
Loop Road
1st and 13th Election Dis-
tricts
1st Councilmanic
Legal Owner(s):
State of Maryland, Un-
iversity of Maryland, Balti-
more County
Contract Purchaser:
American PCS, L.P.
Hearing: Wednesday,
June 7, 1995 at 8:00 a.m.
in Rm. 118, Old
Courthouse.

Special Exception for a
wireless transmitting and re-
ceiving facility. Variance to
permit a property line setback
of 295 feet for a 369 ft. high
wireless transmitting and re-
ceiving facility in lieu of the re-
quired 736 feet.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handi-
capped Accessible; for special ac-
commodations Please Call
887-3353.

(2) For information concern-
ing the File and/or Hearing, Please
Call 887-3391.
5/114 May 11.

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

May 12, 1995

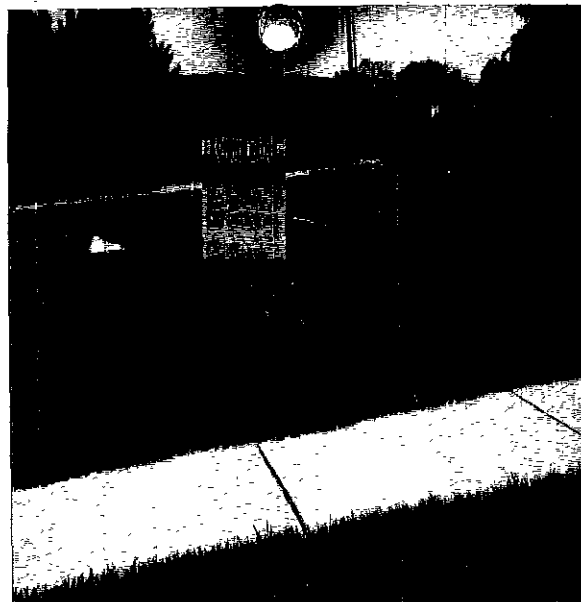
THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper published
in Towson, Baltimore County, Md., once in each of 1 successive
weeks, the first publication appearing on *May 11, 1995*

THE JEFFERSONIAN,

A. Henrichson

LEGAL AD. - TOWSON

~~PUBLISHED~~



592

9686
#35



Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

95-392-XA

Account: R-001-6150

Number

27 April 98
386
CAM

Date

27 April 98

STATE OF Maryland - 5401 Wilkens Ave

020 - 250.00
050 - 300.00
(2) 080 - 70.00

~~320.00~~
\$620.00

WILLIAM D. [illegible]

01A061000001CHRL
0A C00112P0004-27 25

\$620.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 386

Petitioner: STATE OF MARYLAND, UMBC

Location: 5401 WILKENS AVENUE

PLEASE FORWARD ADVERTISING BILL TO:

NAME: AMERICAN PCS L.P.

ADDRESS: ONE DEMOCRACY CENTER
6901 ROCKLEDGE DRIVE

BETHESDA, MD 20817

PHONE NUMBER: 301-214-9400

MICROFILMED

AJ:ggs

(Revised 04/09/93)



TO: PUTUXENT PUBLISHING COMPANY
May 11, 1995 Issue - Jeffersonian

Please forward billing to:

G. Scott Barhight, Esq.
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, MD 21204
832-2000

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-392-XA (Item 386)
5401 Wilkens Avenue
342' NE of Walker Avenue, which is 53' NW of Campus Loop Road
Legal Owner(s); State of Maryland, University of Maryland, Baltimore County
Contract Purchaser: American PCS, L.P.
HEARING: WEDNESDAY, JUNE 7, 1995 at 9:00 a.m. in Room 118, Old Courthouse.

Special Exception for a wireless transmitting and receiving facility.
Variance to permit a property line setback of 295 feet for a 369 ft. high wireless transmitting and receiving facility in lieu of the required 738 feet.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 4, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-392-XA (Item 386)
5401 Wilkens Avenue
342' NE of Walker Avenue, which is 53' NW of Campus Loop Road
Legal Owner(s); State of Maryland, University of Maryland, Baltimore County
Contract Purchaser: American PCS, L.P.
HEARING: WEDNESDAY, JUNE 7, 1995 at 9:00 a.m. in Room 118, Old Courthouse.

Special Exception for a wireless transmitting and receiving facility.
Variance to permit a property line setback of 295 feet for a 369 ft. high wireless transmitting and receiving facility in lieu of the required 738 feet.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: University of Maryland, Baltimore County
Maragaret C. Ruggieri, Esq.
G. Scott Barhight, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 31, 1995

NOTICE OF POSTPONEMENT

CASE NUMBER: 95-392-XA
PETITIONER(S): AMERICAN PCS, INC. and UMBC
LOCATION: UMBC, 5401 WILKENS AVENUE

THE ABOVE MATTER, PREVIOUSLY ASSIGNED TO BE HEARD ON JUNE 7, 1995, HAS BEEN POSTPONED AT THE REQUEST OF CHRISTINE K. MCSHERRY AND SARA , ATTORNEY FOR PETITIONERS.

NOTIFICATION OF THE NEW HEARING DATE WILL BE FORWARDED SHORTLY.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:ggs

cc: Christine K. McSherry, Esq.
Margaret C. Ruggieri, Esq.
Sara Slaff, Esq.
G. Scott Barhight, Esq.

RECORDED



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 17, 1995

NOTICE OF REASSIGNMENT

CASE NUMBER: 95-392-XA (Item 386)
5401 Wilkens Avenue
342' NE of Walker Avenue, which is 53' NW of Campus Loop Road
Legal Owner(s); State of Maryland, University of Maryland, Baltimore
County
Contract Purchaser: American PCS, L.P.

Special Exception for a wireless transmitting and receiving facility.
Variance to permit a property line setback of 295 feet for a 369 ft.
high wireless transmitting and receiving facility in lieu of the
required 738 feet.

HEARING: THURSDAY, AUGUST 10, 1995 at 10:00 a.m. in Room 106, County
Office Building, 111 W. Chesapeake Avenue, Towson MD 21204.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

ARNOLD JABLON
DIRECTOR
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

cc: G. Scott Barhight, Esq./Christine McSherry, Esq.
Margaret C. Ruggieri, Esq.
UMBC/Leland R. Beitel
Jim Joyner
Sara Slaff, Esq.

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**American Personal
Communications**

**AMERICAN PERSONAL COMMUNICATIONS (APC)
HEARING BEFORE THE BALTIMORE COUNTY
ZONING COMMISSIONER
August 10, 1995**

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**PETITIONER'S
EXHIBIT NO. 1**

MICROFILMED

Environmental Impact Statement

Catonsville (U.M.B.C.) American PCS Site

August 1995

Project No. 94123.52

Prepared for:

American PCS, L.P.

One Democracy Center

Suite 600

6901 Rockledge Drive

Bethesda, MD 20817

PETITION
EXHIBIT

Prepared by:

Daft-McCune-Walker, Inc.

200 East Pennsylvania Avenue

Towson, Maryland 21286

DMW

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 1, 1995

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No.: 386
Case No.: 95-392-XA
Petitioner: State of MD.
U.M.B.C.

Dear Mr. Barhight:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by, the Office of Zoning Administration and Development Management (ZADM), Development Control Section on April 27, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr.", is written over a faint, larger version of the same signature.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)



TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson *JLP*
Development Coordinator, DEPRM

SUBJECT: Zoning Item #386 - State of MD., Univ. of MD., Balto. Co. (UMBC)
Zoning Advisory Committee Meeting of May 8, 1995

Air Quality

The site must comply with ANSI Standard C95.1-1982 at all times, including during reasonable roof access for maintenance/custodial personnel. We recommend that Caution/Warning signs be placed at all roof access doors.

JLP:SR:sp

BALTONAT/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: May 23, 1995
Zoning Administration and Development Management

FROM: *RWB* Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for May 15, 1995
Item No. 386

The Developers Engineering Section has reviewed the subject zoning item. If this Special Exception is granted, landscape buffering around the base should be provided as determined necessary. A final landscape plan should be submitted and approved as a condition of permits.

RWB:sw

WICKOFF

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: May 16, 1995

FROM: Pat Keller, Director
Office of Planning and Zoning

A

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item No. 386

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by:

Jeffrey W Long

Division Chief:

Gayle Kerns

PK/JL

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: ZADM

DATE: 5/16/95

FROM: DEPRM
Development Coordination

SUBJECT: Zoning Advisory Committee
Agenda: 5/8/95

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: 378

379

380

381

382

385

386

389

391

LS:sp

LETTY2/DEPRM/TXTSBP



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

5-9-95

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 386 (CAM)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small

for

Ronald Burns, Chief
Engineering Access Permits
Division

BS/

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/05/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF MAY 8, 1995.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 378, 379, 380, 381, 382, 383, 384, 385, 386, 387 AND 390.

RECEIVED

MAY 8 1995

ZADM

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



**PETITION PROBLEMS
AGENDA OF MAY 8, 1995**

#380 --- JCM

1. Need typed or printed name of person signing for legal owner.
2. Need attorney (company is incorporated).
3. No existing zoning on folder.
4. No area on folder.
5. No election district on folder.
6. No councilmanic district on folder.

#381 --- MJK

1. No signature on petition forms for Donald E. Grempler (legal owner).

#382 --- JLL

1. Need attorney (company is incorporated).

#383 --- JLL

1. No item number on petition forms

#384 --- JCM

1. Who is legal owner?? William McMillan, Jr. is trustee for who?
2. Need authorization for Mr. McMillan to sign for legal owner.

#385 --- CAM

1. No telephone number for legal owner.

#386 --- CAM

1. Need authorization for Margaret Ruggieri to sign for contract purchaser.

#387 --- RT

1. No telephone number for legal owner.

#489 --- JJS

1. Need typed or printed name of person signing for legal owner.

RECEIVED
MAY 12 1995

RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
 PETITION FOR VARIANCE *
 5401 Wilkens Avenue, 342' NE of Walker * ZONING COMMISSIONER
 Ave., which is 53' NW of Campus Loop Rd. *
 * OF BALTIMORE COUNTY
 State of Maryland, Univ. of Maryland, *
 Baltimore County / American PCS, L.P. * CASE NO. 95-392-XA
 Petitioners *
 * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
 PETER MAX ZIMMERMAN
 People's Counsel for Baltimore County

Carole S. Demilio
 CAROLE S. DEMILIO
 Deputy People's Counsel
 Room 47, Courthouse
 400 Washington Avenue
 Towson, MD 21204
 (410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of May, 1995, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman
 PETER MAX ZIMMERMAN

J. JOSEPH CURRAN, JR.
Attorney General

NORMAN E. PARKER, JR.
RALPH S. TYLER
Deputy Attorneys General



STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
EDUCATIONAL AFFAIRS DIVISION

5/15/95
JOK
OK
the other
letter

2335-95

JOHN K. ANDERSON
Chief Counsel for
Educational Affairs

TELECOPIER NO.
(410) 576-6437

WRITER'S DIRECT DIAL NO.

May 23, 1995

Via Telecopier and First-Class Mail

Arnold Javlon
Director, Zoning Administration
111 W. Chesapeake Avenue
Rm. 109
Towson, Maryland 21204

95-392 XA
Re: Request for Postponement
Special Exception Petition Hearing
UMBC/APC

Dear Mr. Javlon:

On June 7, 1995, the University of Maryland Baltimore County (UMBC) and American Personal Communications (APC) are scheduled for a Special Exception Petition hearing. APC seeks this Special Exception to use UMBC's tower antenna for commercial purposes. UMBC is also entering into a license agreement with Bell Atlantic Mobile Systems to use our tower for commercial purposes. Bell Atlantic has not yet filed a Petition for Special Exception.

UMBC respectfully requests that the June 7th hearing on the APC/UMBC Special Exception be postponed until such time as it can be combined with the Bell Atlantic Special Exception Petition hearing which will be filed shortly. Counsel for APC have agreed to a limited postponement of 4 to 6 weeks and I trust that Bell Atlantic's petition will be filed well within that time.

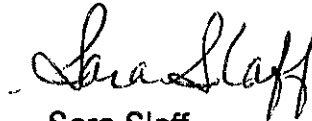
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MAY 25 1995

ZADM

Given that this request has been made 16 days before the scheduled hearing and that the parties are in agreement provided the postponement does not extend beyond 4 to 6 weeks, it is my understanding that the parties need not appear on June 7th. Please inform me at your earliest convenience if our appearance is required.

Thank you for your assistance in this matter.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Sara Slaff", written in a cursive style.

Sara Slaff
Assistant Attorney General

Counsel to UMBC

bl

cc: Scott Barhight, Esq.
Eric Ellis
Christine McSherry, Esq.

VENABLE, BAETJER AND HOWARD, LLP
including professional corporations

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147

VENABLE
ATTORNEYS AT LAW

96-736
OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA

4/13/96
c8
TO LOCK
OK TO Accepting
plans - see me
2/13/96 ucn
WATCH

February 13, 1996

95-392-XA

Hand Delivery

Arnold Jablon, Director
Department of Permits
& Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Petitioner: Bell Atlantic NYNEX Mobile
Zoning Item No.: 303
Parcel A - University of Maryland Baltimore County
South side of Wilkens Avenue, North of Walker Avenue
Request for Issuance of Building Permit

Dear Mr. Jablon:

Our client, Bell Atlantic NYNEX Mobile (BANM), lessee of the above captioned property, is interested in placing several antennas on an existing 369 ft. radio tower and constructing a modular building on property owned by the University of Maryland. The subject property consists of 7.99 ac.± and is zoned DR3.5.

In 1995, under Zoning Case No.: 95-392-XA, this site was the subject of a special exception and variance request. The legal owner, University of Maryland Baltimore County (UMBC) and the contract lessee, American PCS, L.P. were interested in mounting six antennas to the existing tower. The Petitioners sought a special exception for a wireless transmitting and receiving facility on the property and a variance to permit a property line setback of 295 ft. in lieu of the minimum required 738 ft. for the existing 369 ft. high wireless transmitting and receiving facility. The Deputy Zoning Commissioner in his Order dated August 16, 1995 (copy attached), granted the special exception and the variance request. There were no protestants at the hearing.

BANM has filed with the Zoning Office, a petition for special hearing to amend the site plan in Case No. 95-392-XA and a petition for variance to reduce the distance between two buildings (BANM's proposed 12' x 30' modular building and APCS's

1.00 2602 100.00 103

Arnold Jablon, Director
February 13 1996
Page 2

modular building) and the property line setback. The granting of this request will enable BANM to address gaps in service that currently exist. Curing this deficiency as soon as possible is extremely important to BANM.

Based on the history of this site and that we do not anticipate any opposition to this request, it is respectfully requested that the building permit for the proposed antennas and modular building be conditionally approved while the special hearing and variance requests are processed.

Thank you for your attention to this matter.

Yours truly,



Robert A. Hoffman

Enclosure

cc: John Steele
Joseph E. Joyce

TO:DOCS1/BAW01/0004794.01

1st & 13th ED
February 16, 1996

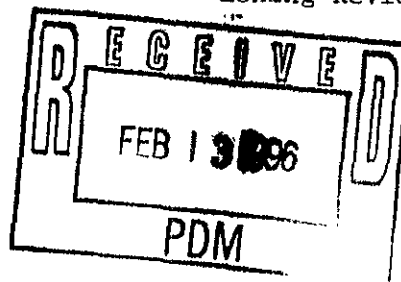
Dear Mr. Hoffman:

Conditional zoning approval of building permits will be given once the attached forms are completed. Please address any development status issues which are outstanding with the DRC.



John L. Lewis
Planner II
Zoning Review

c: #95-392-XA
Item #303



2259-95

5/25/95
y

TO 68
OK -
is the posted? if so
call & have Scott
have sticker put on sign

WHITEFORD, TAYLOR & PRESTON
L.L.P.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515

410 832-2000
FAX 410 832-2015

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

CHRISTINE K. MCSHERRY
DIRECT NUMBER
410 832-2027

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

May 22, 1995

Via Hand Delivery

Mr. Arnold Jablon, Director
Department of Zoning Administration
and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: **Petition for Special Exception and Variance for
5401 Wilkens Avenue, Baltimore, Maryland 21228
Case No. 95-392XA**

Dear Mr. Jablon:

The above-referenced matter is scheduled for a hearing on June 7, 1995 at 9:00 a.m. The legal owners of the property, The University of Maryland Baltimore County have requested that we postpone that hearing to a later date because of UMBC's current community relations. Our client, American PCS (APC), is therefore requesting that the hearing on this Petition for Special Exception and Petition for Variance be postponed until the next available hearing date.

Thank you for your assistance with this postponement and request. If you have any questions or concerns, please feel free to call me at the above telephone number.

Sincerely,

Christine K. McSherry

Christine K. McSherry

CKM:slr
cc: Margaret C. Ruggieri, Esquire

RECEIVED
MAY 22 1995
logged on 23rd.
ZADM

UNRECORDED

3032-95

6/30/95

TO WCR
TO MJK
7/7/95

WHITEFORD, TAYLOR & PRESTON
L.L.P.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515

410 832-2000
FAX 410 832-2015

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 431-0573

CHRISTINE K. MCSHERRY
DIRECT NUMBER
410 842-2027

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

June 29, 1995

Arnold Jablon, Director
Department of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 95-392-XA
UMBC - 5401 Wilkens Avenue

Dear Mr. Jablon:

It has come to my attention that the letter I sent to you yesterday has an incorrect reference line. I mistakenly referred to Case No. 95-453-X (Item 445), 725 Mt. Wilson Lane, Mt. Wilson Hospital as the case on which I needed your determination. That was in error. I am requesting your determination on Case No. 95-392-XA, for the tower at UMBC. I apologize for this mistake and hope it has not caused you any inconvenience.

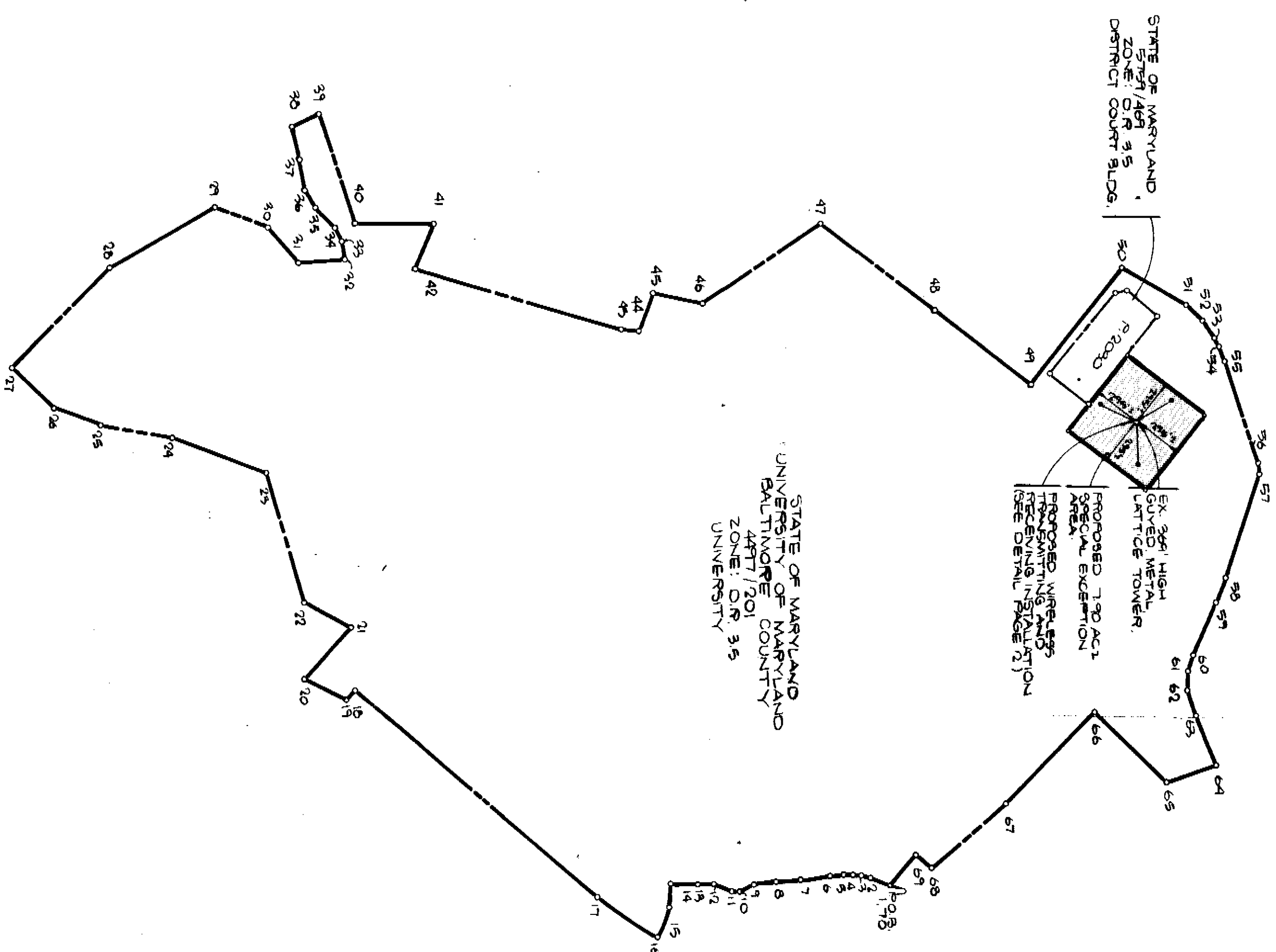
Sincerely,

Christine McSherry
Christine K. McSherry

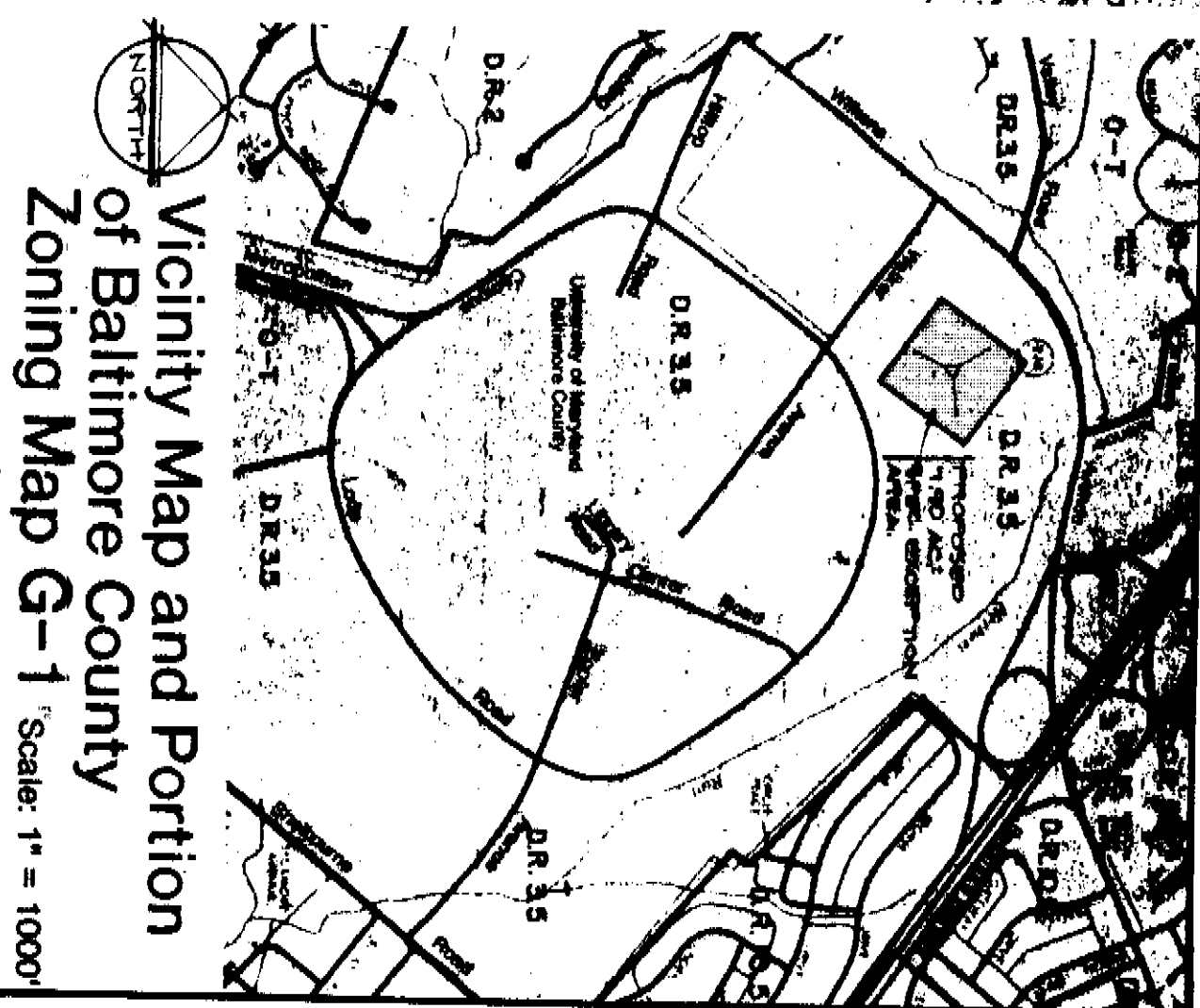
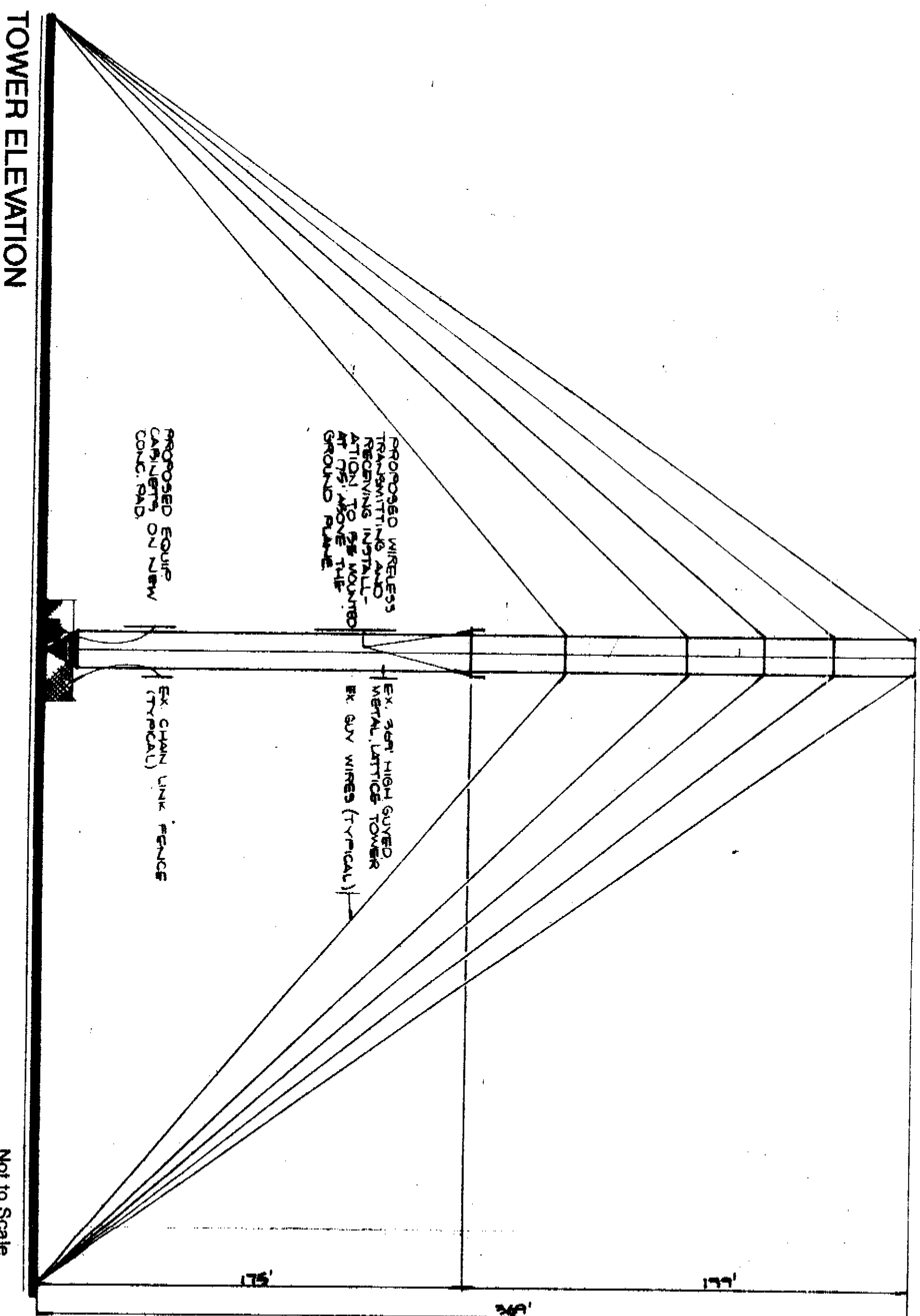
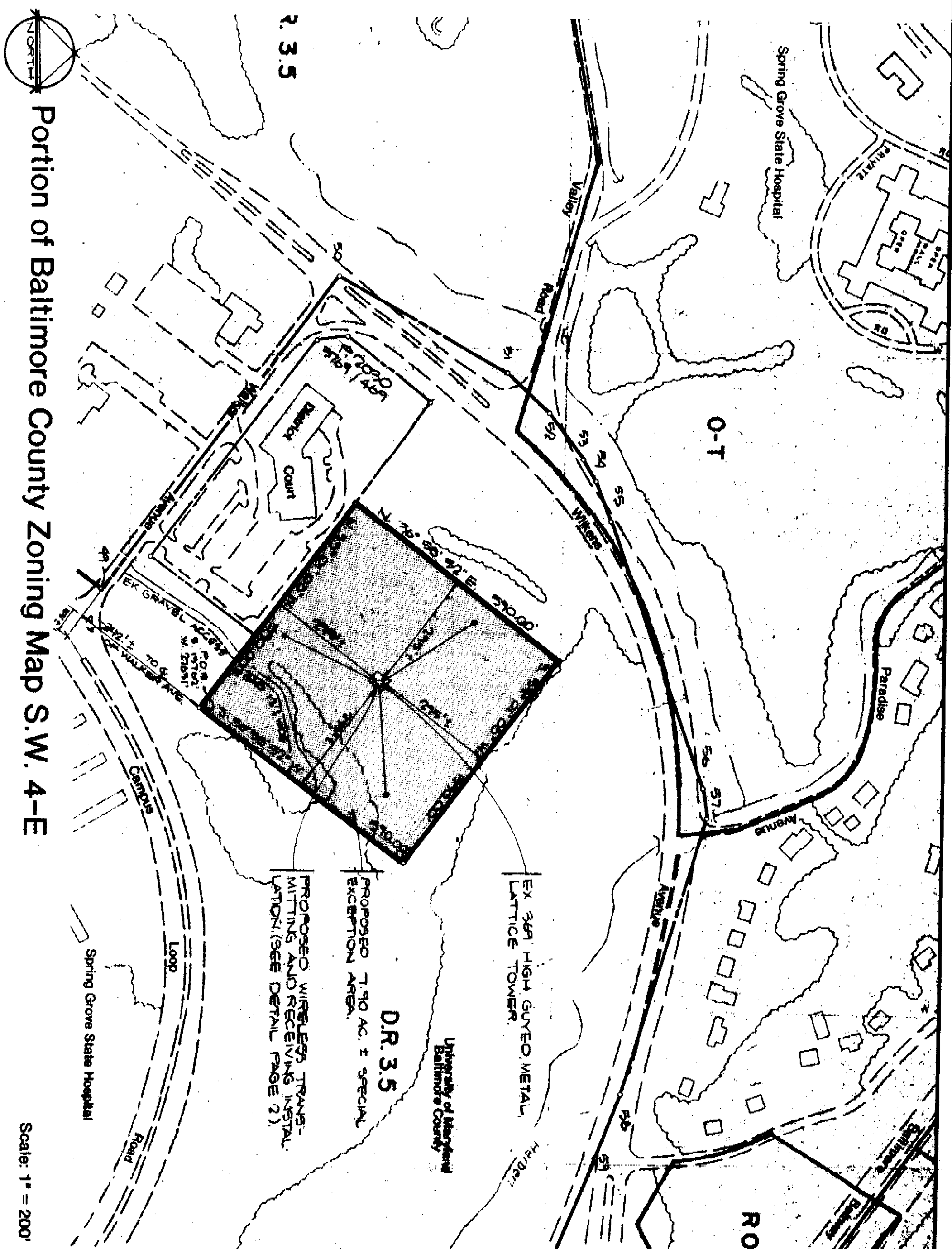
CKM:slf
cc: Margaret C. Ruggieri, Esquire

51808

RECEIVED
JUN 30 1995
ZADM



Bearings & Distances			
FROM	BEARING	DISTANCE	
1 to 2	S 19° 06' 25" W	128.36	
2 to 3	S 19° 06' 25" W	36.31	
3 to 4	S 07° 52' 32" W	128.36	
4 to 5	S 07° 52' 32" W	59.00	
5 to 6	S 06° 26' 43" E	85.89	
6 to 7	S 09° 30' 04" E	175.67	
7 to 8	S 15° 15' 38" E	151.83	
8 to 9	S 28° 46' 23" E	110.92	
9 to 10	S 28° 46' 23" E	50.37	
10 to 11	S 21° 40' 02" W	119.86	
11 to 12	S 21° 40' 02" W	95.75	
12 to 13	S 05° 06' 38" E	95.75	
13 to 14	S 05° 06' 38" E	95.75	
14 to 15	S 14° 12' 15" E	15.10	
15 to 16	S 08° 08' 03" E	15.10	
16 to 17	S 08° 08' 03" E	15.10	
17 to 18	S 39° 41' 14" W	1929.60	
18 to 19	S 25° 20' 02" W	206.82	
19 to 20	S 25° 20' 02" W	206.82	
20 to 21	N 48° 24' 58" W	430.54	
21 to 22	S 26° 20' 02" W	327.47	
22 to 23	S 26° 20' 02" W	81.45	
23 to 24	S 26° 20' 02" W	46 to 47	
24 to 25	S 07° 52' 32" W	47 to 48	
25 to 26	S 07° 52' 32" W	48 to 49	
26 to 27	S 13° 40' 24" W	49 to 50	
27 to 28	S 13° 40' 24" W	50 to 51	
28 to 29	N 26° 16' 37" E	849.76	
29 to 30	N 21° 06' 37" E	349.54	
30 to 31	N 21° 06' 37" E	50 to 51	
31 to 32	N 04° 55' 02" E	51 to 52	
32 to 33	N 04° 55' 02" E	52 to 53	
33 to 34	N 04° 55' 02" E	53 to 54	
34 to 35	S 45° 37' 22" W	280.93	
35 to 36	S 45° 37' 22" W	280.93	
36 to 37	S 45° 37' 22" W	280.93	
37 to 38	S 45° 37' 22" W	280.93	
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41 to 42	S 45° 37' 22" W	280.93	
42 to 43	S 45° 37' 22" W	280.93	
43 to 44	S 45° 37' 22" W	280.93	
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45 to 46	S 45° 37' 22" W	280.93	
46 to 47	S 45° 37' 22" W	280.93	
47 to 48	N 36° 27' 02" E	870.50	
48 to 49	N 36° 27' 02" E	763.38	
49 to 50	N 53° 11' 06" W	763.38	
50 to 51	N 30° 12' 18" E	444.52	
51 to 52	N 30° 12' 18" E	444.52	
52 to 53	N 53° 46' 42" E	130.01	
53 to 54	N 53° 46' 42" E	130.01	
54 to 55	N 53° 46' 42" E	130.01	
55 to 56	N 68° 27' 52" E	57.15	
56 to 57	N 68° 27' 52" E	57.15	
57 to 58	N 70° 43' 82" E	66.64	
58 to 59	N 82° 09' 52" E	66.64	
59 to 60	S 72° 43' 58" E	66.64	
60 to 61	S 72° 43' 58" E	66.64	
61 to 62	S 67° 19' 48" E	156.38	
62 to 63	S 67° 19' 48" E	156.38	
63 to 64	S 73° 40' 18" E	105.13	
64 to 65	S 73° 40' 18" E	105.13	
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178 to 179	S 89° 12' 48" E	115.74	
179 to 180	S 89° 12' 48" E	115.74	
180 to 181	S 89° 12' 48" E	115.74	
181 to 182	S 89° 12' 48" E	115.74	
182 to 183	S 89° 12' 48" E	115.74	
183 to 184	S 89° 12' 48" E	115.74	
184 to 185	S 89° 12' 48" E	115.74	
185 to 186	S 89° 12' 48" E	115.74	
186 to 187	S 89° 12' 48" E	115.74	
187 to 188	S 89° 12' 48" E	115.74	
188 to 189	S 89° 12' 48" E	115.74	
189 to 190	S 89° 12' 48" E	115.74	
190 to 191	S 89° 12' 48" E	115.74	
191 to 192	S 89° 12' 48" E	115.74	
192 to 193	S 89° 12' 48" E	115.74	
193 to 194	S 89° 12' 48" E	115.74	
194 to 195	S 89° 12' 48" E	115.74	
195 to 196	S 89° 12' 48" E	115.74	
196 to 197	S 89° 12' 48" E	115.74	
197 to 198	S 89° 12' 48" E	115.74	
198 to 199	S 89° 12' 48" E	115.74	
199 to 200	S 89° 12' 48" E	115.74	
200 to 201	S 89° 12' 48" E	115.74	
201 to 202	S 89° 12' 48" E	115.74	
202 to 203	S 89° 12' 48" E	115.74	
203 to 204	S 89° 12' 48" E	115.74	
204 to 205	S 89° 12' 48" E	115.74	
205 to 206	S 89° 12' 48" E	115.74	
206 to 207	S 89° 12' 48" E	115.74	
207 to 208	S 89° 12' 48" E	115.74	
208 to 209	S 89° 12' 48" E	115.74	
209 to 210	S 89° 12' 48" E	115.74	
210 to 211	S 89° 12' 48" E	115.74	
211 to 212	S 89° 12' 48" E	115.74	
212 to 213	S 89° 12' 48" E	115.74	
213 to 214	S 89° 12' 48" E	115.74	
214 to 215	S 89° 12' 48" E	115.74	
215 to 216	S 89° 12' 48" E	115.74	
216 to 217	S 89° 12' 48" E	115.74	
217 to 218	S 89° 12' 48" E	115.74	
218 to 219	S 89° 12' 48" E	115.74	
219 to 220	S 89° 12' 48" E	115.74	
220 to 221	S 89° 12' 48" E	115.74	
221 to 222	S 89° 12' 48" E	115.74	
222 to 223	S 89° 12' 48" E	115.74	
223 to 224	S 89° 12' 48" E	115.74	
224 to 225	S 89° 12' 48" E	115.74	
225 to 226	S 89° 12' 48" E	115.74	
226 to 227	S 89° 12' 48" E	115.74	
227 to 228	S 89° 12' 48" E	115.74	
228 to 229	S 89° 12' 48" E	115.74	
229 to 230	S 89° 12' 48" E	115.74	
230 to 231	S 89° 12' 48" E	115.74	
231 to 232	S 89° 12' 48" E	115.74	
232 to 233	S 89° 12' 48" E	115.74	
233 to 234	S 89° 12' 48" E	115.74	
234 to 235	S 89° 12' 48" E	115.74	
235 to 236	S 89° 12' 48" E	115.74	
236 to 237	S 89° 12' 48" E	115.74	
237 to 238	S 89° 12' 48" E	115.74	
238 to 239	S 89° 12' 48" E	115.74	
239 to 240	S 89° 12' 48" E	115.74	
240 to 241	S 89° 12' 48" E	115.74	
241 to 242	S 89° 12' 48" E	115.74	
242 to 243	S 89° 12' 48" E	115.74	
243 to 244	S 89° 12' 48" E	115.74	
244 to 245	S 89° 12' 48" E	115.74	
245 to 246	S 89° 12' 48" E	115.74	
246 to 247	S 89° 12' 48" E	115.74	
247 to 248	S 89° 12' 48" E	115.74	
248 to 249	S 89° 12' 48" E	115.74	
249 to 250	S 89° 12' 48" E	115.74	
250 to 251	S 89° 12' 48" E	115.74	
251 to 252	S 89° 12' 48" E	115.74	
252 to 253			



NOTES:

- | | |
|----|--|
| 1. | Current owner address:
University of Maryland
University of Maryland Baltimore County
5401 Wilkins Avenue
Baltimore, MD 21226 |
| 2. | Contract lessee:
American PCS, L.P.
U.S. Democracy Center
1000 Pennsylvania State 600
Bethesda, MD 20817 |
| 3. | Total Site area:
488,77 Ac.± |
| 4. | Special
Exception area:
7.90 Ac. ± |
| 5. | Existing use:
University and related on Street Parking |
| 6. | Street address:
5401 Wilkins Avenue
Baltimore, MD 21226 |
| | Site data:
Tax map: 101, block: 22, parcel: 1372
Assessed Value: \$1,000,000.00
Tax Account No: 0119177372
Zoning: RA-3.5 and 13
Easement: D-1
Concurrent Use: 7 |

7. The proposed wireless transmitting and receiving facility will consist of (1) 5.5" high x 6.5" wide x 2.7" deep Panel Antennas, mounted at 1.75' above the ground plane on an existing 360' high tower, and (2) 4.75" high x 4.75" wide x 1.8" deep Equipment Cabinets, mounted on a new 14' x 6' x 1' concrete pad.

(first) each of those attorneys on an assisting 350 S. North Avenue, Baltimore, Maryland, would be exempt from and not subject to the Special Exception (Public Hearing) process. Zoning Case # 89-335-SP-X also requested a Special Exception to permit a wireless transmitting and receiving station. On June 23, 1989 the Deputy Zoning Commissioner of Baltimore County ordered that the case be dismissed without prejudice.

9. No water or sanitary utilities are required for this facility.
10. The information and boundary location shown hereon have been compiled from sources believed to be reliable; however their accuracy is not guaranteed and is subject to revision.
11. Environmental protection agency standards and guidelines relating to radiation activities shall be met at all times.

- 12 When use is terminated equipment and structures will be removed.
- 13 Every five years, or sooner in the event of substantial damage, a certification by a professional engineer registered in Maryland shall be filed with the Department of Permits and Licenses indicating that the structure meets all safety requirements. Any

14. An environmental impact statement, as defined in Section 101 of the Baltimore County Zoning Ordinance shall be submitted, at the time of the hearing, to the Zoning Commission.
15. No additional staff or antennae units are necessary.

16. There are no signs proposed for
17. **SEALBACKS:** Required to Lower 739
Front: 295' +
to Lower 739

18.	Amenity open space:	N/A	
19.	Floor area ratio:	N/A	

DAFT-MODULE-WA

APR 27 1995

21. The structure is enclosed with an existing locked, chain link fence. The proposed wireless transmitting and receiving facilities do not block or affect any existing parking spaces.

22. There are no previous Commercial Permits for this site.

Requested Zoning Action Special Exception pursuant to B.C.Z.R. § 1B01.1B20 to permit a wireless transmitting and receiving facility.

Variance pursuant to B.C.Z.R. § 502.7.C.2 to permit a property

95-392-XA

STATE OF MARYLAND
44471/201
ZONE DR 3.5
UNIVERSITY OF MARYLAND BALTIMORE CO.

Proposed 7.90 Ac. ±
Special Exception Area

WILKENS AVENUE

WALKER AVENUE

STATE OF MARYLAND
ZONE DR 3.5
DISTRICT COURT 908

EX CHAIN LINK FENCE
EX 24' HIGH SURVEY METAL
LATTICE TOWER
PROPOSED - (6) PANEL
ANTENNAS 53' x 6.5' x 7.7'
MOUNTED ON EX TOWER
GROUND PLANE

PROPOSED - (2) EQUIPMENT CABINETS
4' x 5' x 4' - 11" x 5" MOUNTED ON
A NEW CONCRETE PAD 14' x 10' x 1'

EX 6' WIRE LINE

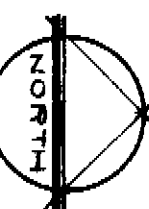
EX CHAIN
LINK FENCE

EX CHAIN
LINK FENCE

EX GRAVEL ACCESS ROAD 12' WIDE

240' ± FROM E OF WALKER ROAD TO POB

POB
N 77° 03' 12" E
150.00'



SITE DETAIL

Scale: 1" = 50'

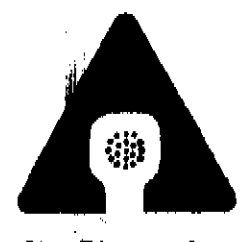
PRINTED

APR 27 1995

DAFT-MACQUE-WALKER, INC.



Sheet



American Personal
Communications
Site Plan to Accompany Petition for Special Exception and Variance
Catonsville (U.M.B.C.)
1st and 18th Election Districts

BAN 15
Baltimore County, Maryland

DMW
DAFT-MACQUE-WALKER, INC.
A Division of David MacQuinn-Walker, Inc.
Engineers, Surveyors &
Environmental Technicians
200 E. Broadway, 2nd Floor
Baltimore, Maryland 21201
Tel: 234-4785

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND VARIANCE - S/S Wilkens Ave., * DEPUTY ZONING COMMISSIONER
SE/S of its intersection with Walker Ave., 53' N of Campus Loop Rd.
(6401 Wilkens Avenue) * OF BALTIMORE COUNTY
1st and 13th Election Districts * Case No. 95-392-XA
1st Councilmanic District
University of Maryland, Baltimore County (UMBC)
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Exception and Variance for that property known as 6401 Wilkens Avenue, located near its interchange with the Baltimore Beltway in Catonsville. The Petitions were filed by the owners of the property, the State of Maryland, University of Maryland, Baltimore County, by Leland R. Beitel, Associate Vice President of Administrative Affairs, and American PCS, L.P., Contract Lessee, by Margaret C. Ruggieri, Esquire, through their attorney G. Scott Barbright, Esquire. The Petitioners seek a special exception for a wireless transmitting and receiving facility on the subject property, and a variance from Section 502.7.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a property line setback of 295 feet in lieu of the minimum required 738 feet for an existing 369-foot high wireless transmitting and receiving facility. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petitions were representatives of American PCS and UMBC, and Christine McSherry, Esquire, who appeared on behalf of American PCS. There were no Protestants present.

Testimony and evidence offered revealed that the property which is the subject of this request consists of 7.9 acres, more or less, zoned

D.R. 3.5 and is located within the UMBC complex off of Wilkens Avenue. The Petitioners are desirous of locating a wireless transmitting and receiving facility on the subject property. Specifically, the Petitioners wish to install six (6) antenna on an existing 369-foot tower located on the campus of UMBC. In addition to the special exception request, a variance is needed to legitimize the existing tower. Testimony revealed that since the property is State-owned, a variance for the height of the tower was not necessary at the time it was erected. Now that a private concern, American PCS, is desirous of locating antennae on this tower, the special exception and height variance become necessary.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 3.5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. *Schultz v. Pritts*, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in

roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of *Cromwell v. Ward*, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In *Loyola Federal Savings and Loan Association v. Buschman*, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." *Loyola Federal*, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to

be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in *Anderson*, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief to the owner of the property involved and be more consistent with that afforded other property owners; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, p. 39. See also *McLean v. Soley*, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of August, 1995 that the Petition for Special Exception to permit a wireless transmitting and receiving facility on the subject property, in accordance with Petitioner's Exhibit 3, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 502.7.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a property line setback of 295 feet in lieu of the minimum required 738 feet for an existing 369-foot high wireless transmitting and receiving facility, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

Timothy M. Kotrood
TIMOTHY M. KOTROOD
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204
August 16, 1995
(410) 887-4386

G. Scott Barbright, Esquire
Christine McSherry, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
S/S Wilkens Avenue, SE/S of its intersection with Walker Avenue
and 53' N of Campus Loop Rd.
(6401 Wilkens Avenue)
1st and 13th Election Districts - 1st Councilmanic District
Case No. 95-392-XA

Dear Mr. Barbright & Ms. McSherry:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

Very truly yours,
Timothy M. Kotrood
TIMOTHY M. KOTROOD
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Margaret C. Ruggieri, Esquire, American PCS, L.P.
One Democracy Center, 6901 Rockledge Drive, Bethesda, Md. 20817

People's Counsel
File

Petition for Variance
to the Zoning Commissioner of Baltimore County
for the property located at 5401 Wilkens Ave., Baltimore, MD 21228
which is presently zoned D.R. 3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 502.7.C.2 to permit a property line setback of 295 feet for a 369 ft high wireless transmitting and receiving facility in lieu of the required 738 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)
To be presented at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Correct Petitioner/Assessor:
Margaret C. Ruggieri, Esq.
State of Maryland,
University of Maryland, Baltimore Co.
Type or Print Name: Leland R. Beitel, Assoc. Vice President for Admin. Affairs, UMBC
Signature: *Leland R. Beitel*
Address: 5401 Wilkens Ave., Administrative Bldg.
9th Flr, Room 923
Baltimore, MD 21228
City, State and phone number or representative to be contacted: 455-2939

Address: 5401 Wilkens Ave., Administrative Bldg.
9th Flr, Room 923
Baltimore, MD 21228
City, State and phone number or representative to be contacted: 455-2939

Address: 210 W. Pennsylvania Ave.
Towson, MD 21204
City, State and phone number or representative to be contacted: 832-2000

Address: 210 W. Pennsylvania Ave.
Towson, MD 21204
City, State and phone number or representative to be contacted: 832-2000

ESTIMATED LENGTH OF HEARING: _____
Date: _____
By: _____
Printed with Signature on Recycled Paper



Petition for Special Exception to the Zoning Commissioner of Baltimore County

for the property located at 5401 Wilkens Ave., Baltimore, MD 21228
which is presently zoned DR3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for a wireless transmitting and receiving facility.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, above, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. Expenses to be paid by American PCS, L.P.

Contract Purchaser/Owner:

Margaret C. Ruggieri, Esq.

Type of Petitioner: American PCS, L.P.

ONE Democracy Center
6901 Rockledge Drive

Address:

Bethesda, MD 20817

City State Zipcode

Attorney for Petitioner:

G. Scott Barhight, Esq.

Whiteford, Taylor & Preston

210 W. Pennsylvania Ave. (410) 832-2000

Towson, MD 21204

City State Zipcode

Legal Owner(s):

State of Maryland

University of Maryland, Baltimore Co.

By: Leland R. Beitel, Assoc. Vice

President for Admin. Affairs, UMBC

Signature:

5401 Wilkens Ave. Administrative Bldg.

9th Floor, Room 923 455-2939

Address:

Baltimore, MD 21228

City State Zipcode

Name:

210 W. Pennsylvania Ave. 832-2000

Address:

Towson, MD 21204

City State Zipcode

ESTIMATED LENGTH OF HEADLINE:

the following dates: _____

ALL OTHER: _____

REVIEWED BY: _____ DATE: _____

DMW

Draft APC/Gene Walker, Inc.

300 East Pennsylvania Avenue

Towson, Maryland 21206

410 296 3333

Fax 296 4705

A Team of Land Owners:

Landscaping Architects:

Engineers, Surveyors, C.

Environmental Professionals

Description
To Accompany Petition for
Special Exception and Variance
7.9 Acre Special Exception Parcel
University of Maryland, Baltimore County
5401 Wilkens Avenue

Thirteenth Election District, Baltimore County, Maryland
Beginning for the same at the end of the second of two following courses
and distances measured from the point formed by the intersection of the
centerline of Walker Avenue with the centerline of Campus Loop Road (1)
North 53 degrees 01 minutes 08 seconds West along the centerline of Walker
Avenue 53 feet, more or less, and thence at a right angle to said Walker Avenue
(2) North 36 degrees 58 minutes 52 seconds East 342 feet, more or less, to the
point of beginning, said point of beginning having coordinate values South
13762 feet, more or less, and West 27631 feet, more or less, said values being
referred to the coordinate system established in the Baltimore County
Metropolitan District, thence leaving said beginning point and running the four
following courses and distances, viz.: (1) North 53 degrees 01 minutes 08
seconds West 590.00 feet, thence (2) North 36 degrees 58 minutes 52 seconds East
590.00 feet, thence (3) South 53 degrees 01 minutes 08 seconds East 590.00 feet,
and thence (4) South 36 degrees 58 minutes 52 seconds West 590.00 feet to the
point of beginning; containing 7.9 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES
ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

April 27, 1995
Project No. 94123.52



CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: Lit + 134 Date of Posting: 5/13/95
Posted for: Special Exception & Variance
Petitioner: Sale of M. L. Thompson, P.C., L.P.
Location of property: 5401 Wilkens Ave., MD
Location of Sign: Along and up Campus Loop Road
Remarks:
Posted by: [Signature] Date of return: 5/19/95
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 12, 1995

THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper published
in Towson, Baltimore County, Md., once in each of 1 successive
weeks, the first publication appearing on May 11, 1995

THE JEFFERSONIAN,

A. Henrichs

LEGAL AD. - TOWSON

Publication

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 on Wednesday, June 7, 1995 at 9:00 a.m. in Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: 95-392-XA (Item 386)

Legal Owner(s): State of Maryland, University of Maryland, Baltimore County

Contract Purchaser: American PCS, L.P.

Hearing: Wednesday, June 7, 1995 at 9:00 a.m. in Room 118, Old Courthouse.

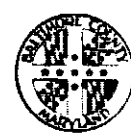
Special Exception for a wireless transmitting and receiving facility. Variance to permit a property line setback of 295 feet for a 369 ft. high wireless transmitting and receiving facility in lieu of the required 738 feet.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are held in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204. (2) For information concerning the filing and/or hearing, please call 887-3353. (3) For information concerning the filing and/or hearing, please call 887-3353. May 11

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 386

Petitioner: STATE OF MARYLAND, UMBC

Location: 5401 WILKENS AVENUE

PLEASE FORWARD ADVERTISING BILL TO:

NAME: AMERICAN PCS L.P.

ADDRESS: ONE DEMOCRACY CENTER

6901 ROCKLEDGE DRIVE

BETHESDA, MD 20817

PHONE NUMBER: 301-241-9400

AJ:998

(Revised 04/09/93)

TO: POUZENT PUBLISHING COMPANY
May 11, 1995 Issue - Jeffersonian

Please forward billing to:

G. Scott Barhight, Esq.
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, MD 21204
832-2000

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 on Wednesday, June 7, 1995 at 9:00 a.m. in Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-392-XA (Item 386)

Legal Owner(s): State of Maryland, University of Maryland, Baltimore County

Contract Purchaser: American PCS, L.P.

Hearing: WEDNESDAY, JUNE 7, 1995 at 9:00 a.m. in Room 118, Old Courthouse.

Special Exception for a wireless transmitting and receiving facility. Variance to permit a property line setback of 295 feet for a 369 ft. high wireless transmitting and receiving facility in lieu of the required 738 feet.

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (2) FOR INFORMATION CONCERNING THE FILING AND/OR HEARING, PLEASE CALL 887-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 4, 1995

NOTICE OF HEARING

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LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) HEARING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE. (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (3) FOR INFORMATION CONCERNING THE FILING AND/OR HEARING, CONTACT THIS OFFICE AT 887-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 31, 1995

NOTICE OF POSTPONEMENT

CASE NUMBER: 95-392-XA
PETITIONER(S): AMERICAN PCS, INC. and UMBC
LOCATION: UMBC, 5401 WILKENS AVENUE

THE ABOVE MATTER, PREVIOUSLY ASSIGNED TO BE HEARD ON JUNE 7, 1995, HAS BEEN POSTPONED AT THE REQUEST OF CHRISTINE K. MCSHERRY AND SARA A. ATTORNEY FOR PETITIONERS.

NOTIFICATION OF THE NEW HEARING DATE WILL BE FORWARDED SHORTLY.

Arnold Jablon
Director

AJ:ggg

cc: Christine K. McSherry, Esq.
Margaret C. Ruggieri, Esq.
Sara Slaff, Esq.
G. Scott Barhight, Esq.

Printed with Soy-based ink on Recycled Paper

July 17, 1995

NOTICE OF REASSIGNMENT

CASE NUMBER: 95-392-XA (Item 386)
5401 Wilkens Avenue
342' NE of Walker Avenue, which is 53' NW of Campus Loop Road
Legal Owner(s): State of Maryland, University of Maryland, Baltimore
County
Contract Purchaser: American PCS, L.P.

Special Exception for a wireless transmitting and receiving facility.
Variance to permit a property line setback of 295 feet for a 369 ft.
high wireless transmitting and receiving facility in lieu of the
required 738 feet.

HEARING: THURSDAY, AUGUST 10, 1995 at 10:00 a.m. in Room 106, County
Office Building, 111 W. Chesapeake Avenue, Towson MD 21204.

ARNOLD JABLON
DIRECTOR
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

cc: G. Scott Barhight, Esq./Christine McSherry, Esq.
Margaret C. Ruggieri, Esq.
UMBC/Leland R. Beitel
Jim Joyner
Sara Slaff, Esq.

June 1, 1995

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No.: 386
Case No.: 95-392-XA
Petitioner: State of MD.
U.M.B.C.

Dear Mr. Barhight:

The Zoning Advisory Committee (ZAC), which consists of representa-
tives from Baltimore County approving agencies, has reviewed the plans
submitted with the above referenced petition. Said petition was accepted
for processing by the Office of Zoning Administration and Development
Management (ZADM), Development Control Section on April 27, 1995.

Any comments submitted thus far from the members of ZAC that offer or
request information on your petition are attached. These comments are not
intended to indicate the appropriateness of the zoning action requested,
but to assure that all parties; i.e., zoning commissioner, attorney,
petitioner, etc. are made aware of plans or problems with regard to the
proposed improvements that may have a bearing on this case. Only those
comments that are informative will be forwarded to you; those that are not
informative will be placed in the permanent case file.

If you need further information or have any questions regarding these
comments, please do not hesitate to contact the commenting agency or Joyce
Watson in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management
May 30, 1995

FROM: J. Lawrence Pilson
Development Coordinator, DEPRM

SUBJECT: Zoning Item #386 - State of MD., Univ. of MD., Balto. Co. (UMBC)
Zoning Advisory Committee Meeting of May 8, 1995

The Department of Environmental Protection and Resource Management offers
the following comments on the above-referenced zoning item.

Air Quality

The site must comply with ANSI Standard C95.1-1982 at all times, including
during reasonable roof access for maintenance/custodial personnel. We
recommend that Caution/Warning signs be placed at all roof access doors.

JLP:SR:sp

BALTONAT/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and Development Management
DATE: May 23, 1995

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for May 15, 1995
Item No. 386

The Developers Engineering Section has reviewed
the subject zoning item. If this Special Exception is
granted, landscape buffering around the base should be
provided as determined necessary. A final landscape plan
should be submitted and approved as a condition of permits.

RWB:ew

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: May 16, 1995

FROM: Pat Keller, Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item No. 386

If there should be any further questions or if this office can provide additional
information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey M. Long
Division Chief: Daryl L. Kram

PK/JL

ITEM386/PZONE/ZAC1

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: ZADM
FROM: DEPRM
Development Coordination
SUBJECT: Zoning Advisory Committee
Agenda: 5/8/95

DATE: 5/16/95

The Department of Environmental Protection & Resource Management has no
comments for the following Zoning Advisory Committee items:

Item #'s: 378
379
380
381
382
385
386
389
391

LS:sp

LETTY2/DEPRM/TXTSBP

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassell
Administrator

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 386 (CAM)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to
approval as it does not access a State roadway and is not effected by any State Highway
Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
Bob Small
for Ronald Burns, Chief
Engineering Access Permits
Division

BS/

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/05/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF MAY 8, 1995.

Item No.: SEE BELOW Zoning Agenda:

Comments:

Pursuant to your request, the referenced property has been surveyed
by this Bureau and the contents below are applicable and required to
be corrected or incorporated into the final plans for the property.

9. The Fire Marshal's Office has no comments at this time.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 378, 379, 380, 381, 382, 383,
384, 385, 386, 389 AND 390.

RECEIVED
MAY 8 1995
ZADM

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4601, MS-1102F

cc: File

PETITION PROBLEMS AGENDA OF MAY 8, 1995

#380 --- JCM

1. Need typed or printed name of person signing for legal owner.
2. Need attorney (company is incorporated).
3. No existing zoning on folder.
4. No area on folder.
5. No election district on folder.
6. No councilmanic district on folder.

#381 --- MJK

1. No signature on petition forms for Donald E. Grempler (legal owner).

#382 --- JLL

1. Need attorney (company is incorporated).

#383 --- JLL

1. No item number on petition forms

#384 --- JCM

1. Who is legal owner?? William McMillan, Jr. is trustee for who?
2. Need authorization for Mr. McMillan to sign for legal owner.

#385 --- CAM

1. No telephone number for legal owner.

#386 --- CAM

1. Need authorization for Margaret Ruggieri to sign for contract purchaser.

#387 --- RT

1. No telephone number for legal owner.

#489 --- JJS

1. Need typed or printed name of person signing for legal owner.

RE: PETITION FOR SPECIAL EXCEPTION
PETITION FOR VARIANCE
5401 Wilkens Avenue, 342' NE of Walker
Ave., which is 53' NW of Campus Loop Rd.
State of Maryland, Univ. of Maryland,
Baltimore County / American PCS, L.P.
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO. 95-392-XA

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Charles S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of May, 1995, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

J. JOSEPH CURRAN, JR.
Attorney General

NORMAN E. PARKER, JR.
RALPH S. TYLER
Deputy Attorneys General

TELEPHONE NO.
(410) 576-6437

STATE OF MARYLAND OFFICE OF THE ATTORNEY GENERAL EDUCATIONAL AFFAIRS DIVISION

May 23, 1995

Via Telecopier and First-Class Mail

Arnold Javlon
Director, Zoning Administration
111 W. Chesapeake Avenue
Rm. 109
Towson, Maryland 21204

Re: Request for Postponement
Special Exception Petition Hearing
UMBC/APC

Dear Mr. Javlon:

On June 7, 1995, the University of Maryland Baltimore County (UMBC) and American Personal Communications (APC) are scheduled for a Special Exception Petition hearing. APC seeks this Special Exception to use UMBC's tower antenna for commercial purposes. UMBC is also entering into a license agreement with Bell Atlantic Mobile Systems to use our tower for commercial purposes. Bell Atlantic has not yet filed a Petition for Special Exception.

UMBC respectfully requests that the June 7th hearing on the APC/UMBC Special Exception be postponed until such time as it can be combined with the Bell Atlantic Special Exception Petition hearing which will be filed shortly. Counsel for APC have agreed to a limited postponement of 4 to 6 weeks and I trust that Bell Atlantic's petition will be filed well within that time.

RECEIVED
MAY 25 1995
ZADM

200 Saint Paul Place • Baltimore, Maryland 21202-2021
Telephone Numbers: (410) 576-6450 • D.C. Metro 470-7534
Telephone for Deaf: (410) 576-6372 • D.C. Metro 565-0451

WHITEFORD, TAYLOR & PRESTON L.L.P.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-2020
TELEPHONE: 410-576-7092
FAX: 410-742-7092

CHRISTINE K. MCSHERRY
410-832-2015

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410-832-2000
FAX: 410-832-2015

May 22, 1995

Via Hand Delivery

Mr. Arnold Jablon, Director
Department of Zoning Administration
and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Special Exception and Variance for
5401 Wilkens Avenue, Baltimore, Maryland 21228
Case No. 95-392XA

Dear Mr. Jablon:

The above-referenced matter is scheduled for a hearing on June 7, 1995 at 9:00 a.m. The legal owners of the property, The University of Maryland Baltimore County have requested that we postpone that hearing to a later date because of UMBC's current community relations. Our client, American PCS (APC), is therefore requesting that the hearing on this Petition for Special Exception and Petition for Variance be postponed until the next available hearing date.

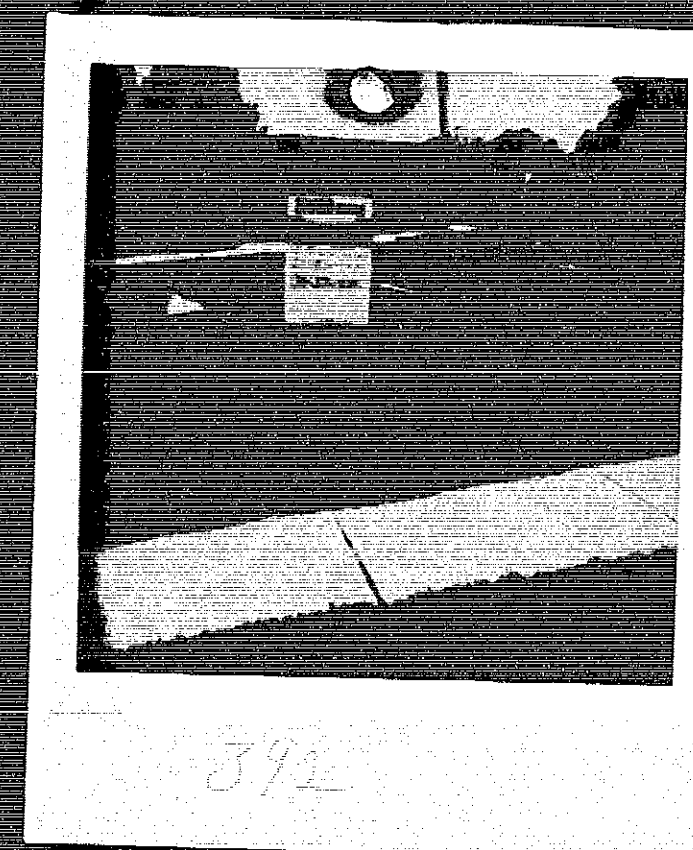
Thank you for your assistance with this postponement and request. If you have any questions or concerns, please feel free to call me at the above telephone number.

Sincerely,

Christine K. McSherry
Christine K. McSherry

CKM:slr
cc: Margaret C. Ruggieri, Esquire

RECEIVED
MAY 23 1995
ZADM



AMERICAN PERSONAL COMMUNICATIONS (APC)
HEARING BEFORE THE BALTIMORE COUNTY
ZONING COMMISSIONER
August 10, 1995

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1. License Agreement with University of Maryland Baltimore County
2. Photographs of 5401 Wilkens Avenue
3. Photographs and Specification Sheets for Antennas
4. Photograph and Specification Sheets for Equipment Cabinets
5. FCC License
6. FCC Adopts ANSI EMF Regulations
7. Radio Frequency Statement - Jules Cohen
8. FCC Statement on PCS - Creating Significant Benefits for Consumers and Business
9. FCC's Chairman, Reed Hundt, Speech Excerpts

PETITIONER'S
EXHIBIT NO. 1

2112 CM Court Road, Baltimore, MD 21208-3432 (410) 825-4220 Fax (410) 821-8430
One Democracy Center, 6901 Rockledge Drive, Suite 600, Bethesda, MD 20817 (301) 214-9300 Fax (301) 214-9400
1-800-TALK-APC

VENABLE
ATTORNEYS AT LAW

VENABLE, BAETTER AND HOWARD, LLP
Attorneys at Law
210 Alhambra Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200 Fax (410) 821-0147

February 13, 1996

Hand Delivery

Arnold Jablon, Director
Department of Permits
& Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Petitioner: Bell Atlantic NYNEX Mobile
Zoning Item No.: 303
Parcel A - University of Maryland Baltimore County
South side of Wilkens Avenue, North of Walker Avenue
Request for Issuance of Building Permit

Dear Mr. Jablon:

Our client, Bell Atlantic NYNEX Mobile (BANM), lessee of the above captioned property, is interested in placing several antennas on an existing 369 ft. radio tower and constructing a modular building on property owned by the University of Maryland. The subject property consists of 7.99 ac ± and is zoned DR3.5.

In 1995, under Zoning Case No.: 95-392-XA, this site was the subject of a special exception and variance request. The legal owner, University of Maryland Baltimore County (UMBC) and the contract lessee, American PCS, L.P. were interested in mounting six antennas to the existing tower. The Petitioners sought a special exception for a wireless transmitting and receiving facility on the property and a variance to permit a property line setback of 295 ft. in lieu of the minimum required 738 ft. for the existing 369 ft. high wireless transmitting and receiving facility. The Deputy Zoning Commissioner in his Order dated August 16, 1995 (copy attached), granted the special exception and the variance request. There were no protestants at the hearing.

BANM has filed with the Zoning Office, a petition for special hearing to amend the site plan in Case No. 95-392-XA and a petition for variance to reduce the distance between two buildings (BANM's proposed 12' x 30' modular building and APC's

Environmental Impact Statement

Catonsville (U.M.B.C.)
American PCS Site

August 1995
Project No. 94123.52

Prepared for:
American PCS, L.P.
One Democracy Center
Suite 600
6901 Rockledge Drive
Bethesda, MD 20817

DMW

Prepared by:
Dish-McCane-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286

PETITIONER'S
EXHIBIT NO. 2

